

IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest)	MEMORANDUM DECISION
of A.H., a person under)	(Not For Official Publication)
eighteen years of age.)	
_____)	Case No. 20070230-CA
)	
C.H.,)	F I L E D
)	(May 3, 2007)
Appellant,)	
)	2007 UT App 159
v.)	
)	
State of Utah,)	
)	
Appellee.)	

Third District Juvenile, Salt Lake Department, 520054
The Honorable James R. Michie

Attorneys: Brent Salazar-Hall, Salt Lake City, for Appellant
Mark L. Shurtleff and John M. Peterson, Salt Lake
City, for Appellee

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

C.H. (Mother) appeals the juvenile court's adjudication order. We affirm.

At the adjudication hearing, Mother admitted several allegations contained in the State's verified petition. Mother refused to admit or deny the remaining allegations. Accordingly, under rule 34(e) of the Utah Rules of Juvenile Procedure, the allegations were deemed to be true. See Utah R. Juv. P. 34(e). Mother argues that the juvenile court's findings of fact, which were based upon the State's verified petition, were insufficient to support a conclusion that A.H. was abused and that Mother perpetrated that abuse.

We deal with Mother's second argument first. Mother argues that there was insufficient evidence to demonstrate that she abused A.H. However, such a determination is not needed to resolve this appeal, nor is it relevant to the juvenile court's

determination that it had jurisdiction over A.H. "The role of the parents in contributing to the [child's] status or condition is relevant in deciding the case on the merits, but it is of no consequence in deciding whether the juvenile court has jurisdiction. Jurisdiction is strictly a function of the [child's] status or condition." In re K.T.S., 925 P.2d 603, 605 (Utah Ct. App. 1996) (per curiam). Accordingly, because Mother's precise role in the abuse of A.H. is irrelevant in determining whether the juvenile court has jurisdiction over A.H., we decline to consider it.

Mother next argues that there was insufficient evidence to demonstrate that A.H. was an abused child. An "abused child" is defined as a child who, among other things, "has suffered or been threatened with nonaccidental physical or mental harm, negligent treatment, or sexual exploitation." Utah Code Ann. § 78-3a-103(1)(a)(I) (Supp. 2006). In its findings of fact, the juvenile court found, among other things, that when A.H.'s leg was raised he would scream as if in excruciating pain. Further, after being taken into custody, A.H. was taken to Primary Children's Hospital where the hospital staff determined that he had numerous broken bones including nine or ten ribs, his fore foot, tibia, and forearm. The hospital staff also determined that many of these injuries did not occur at the same time. Mother's only explanation for the injuries was that A.H. fell off a couch. Further, although Mother reported that she and the father had taken A.H. to obtain medical care, she refused to sign releases to allow the State to obtain such information. Finally, at the time DCFS took custody of A.H., Mother admitted that she heard A.H.'s ribs popping.

Under these facts it is clear that A.H. was an abused child as a result of, at the very minimum, negligent treatment, if not nonaccidental harm. A.H. suffered severe injuries at different times. Mother's only explanation as to how A.H. received such injuries is that A.H. fell off of a couch. However, common sense dictates that a baby cannot receive multiple injuries at different times based upon one fall from a couch. See In re Z.D., 2007 UT App 33, ¶8, 571 Utah Adv. Rep. 8 (recognizing that common sense is one aspect to be used in juvenile court's determinations). But for someone's intentional or negligent conduct, A.H. would not have suffered the multitude of injuries that he did. Further, it is equally clear that A.H. was not receiving proper medical attention for his very serious injuries. A.H. was in demonstrable pain as evidenced by his cries of agony when his leg was lifted and the popping of his ribs. However, there was little or no evidence that he was being treated for these injuries, or the other injuries later diagnosed by the staff at Primary Children's Hospital. Allowing A.H. to suffer through the multitude of injuries he received at various times

without proper medical treatment constitutes, at a minimum, negligent treatment. Thus, the evidence clearly and convincingly supports the juvenile court's determination that A.H. was an abused child and, as such, the juvenile court properly asserted jurisdiction over the child.

Accordingly, we affirm.

Russell W. Bench,
Presiding Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge